IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.424 OF 2005

Bhartiya Suraksha Rakshak & General
Kamgar Union ..Petitioners.

Vs.

The Security Guards Board & Ors. ..Respondents.

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Ms. Shraddha Mohite instructed by Mr. I.S. Thakur for the Petitioners.

Ms. Pallavi Divekar for Respondent No.1.

Mr. Aditya Khandeparkar instructed by M/s. Khaitan and Jayakar for Respondent No.2.

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CORAM : KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

25th April, 2006.

P.C. (Per DR. D.Y. CHANDRACHUD, J.) :

1. This Petition was initially filed by a trade union representing the interest of security guards employed in the establishment of the Second Respondent. Pursuant to an order passed by this Court, 7 security guards who seek relief through the Petition have been impleaded as Petitioners 1(a) to 1(g). The grievance of the Petitioners is that the security guards in question

have not been still registered with the First Respondent which is the Security Guards Board, Pune. Secondly, it has been submitted that the Second Respondent who is the principal employer has not been registered with the Board and the guards are being supplied by Respondent No.3, a security agency though no exemption has been received under Section 23 of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981.

2. In the affidavit in reply filed on behalf of the Second Respondent, it has been stated that several of the guards on whose behalf the Petition has been filed are not presently engaged at the establishment of the Second Respondent. According to the Second Respondent, the guards whose names have been set out at Sr. No.2, 8 and 11 viz. Petitioners 1(f), 1(e) and 1(c) respectively are, however, engaged at the establishment. The First Respondent Board has in its affidavit in reply stated that the Second Respondent is still not registered and guards supplied by Respondent No.3 are being engaged despite the fact that there is no exemption under the Act. From the affidavit filed by Respondent No.3(b) it is clear that as of date there is no

exemption.

3. In similar matters several orders have been passed by Division Benches of this Court and we may advert to one of them viz. in the case of Maharashtra Rajya Suraksha Rakshak & General Kamgar Union v. Security Guards Board for Gr. Bombay & Thane District dated 10th January, 2003. In the light of the aforesaid order and several other orders which have been annexed to the proceedings hereto, this Petition shall stand disposed of in the light of the following directions :

i) Counsel appearing for the Petitioners states that an application for registration of Petitioners 1(a) to 1(g) shall be made to the First Respondent within a period of two weeks from today. The First Respondent shall take an appropriate decision thereon in accordance with law expeditiously having regard to the provisions of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 and the Scheme framed thereunder ;

ii) Counsel appearing for the Second Respondent states

that the Second Respondent shall make an application for registration with the First Respondent within a period of two weeks. The First Respondent shall take an appropriate decision thereon and follow the provisions of the Act and the scheme while supplying security guards;

iii) As far as possible while allotting services of the security guards, the Board will keep in mind the fact that the security guards whose names are shown at Exh. A have worked with the Second Respondent. The Board will make an endeavour to accommodate these guards in the establishment of the Second Respondent to the extent feasible or elsewhere by providing an alternative establishment;

iv) The ad interim relief granted on 8th February, 2005 shall continue to operate till the disposal of the applications of the Petitioners as well of the Second Respondent by the Board. It is, however, clarified that the ad interim relief shall operate only in respect of those of the guards mentioned in Exh. A to the Petition who are in service at the establishment of the Second Respondent. The Petition is accordingly disposed of. There shall be no order as

to costs.

CHIEF JUSTICE

(DR. D.Y. CHANDRACHUD, J.)